THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.5739 of 2007

Date: 11.06.2007

Between:

Ram Prakash Agarwal and others.

....Petitioners

And

The Sub-Registrar, Champapet, Ranga Reddy District and others.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.5739 of 2007

O R D E R:

Petitioners presented a sale deed executed on 23.05.2006 before the Sub-Registrar, Champapet, first respondent herein, for registration, on the same day. It was assigned Pending Registration No.142/2006. Since the first respondent was not taking any steps on the document, the petitioners filed W.P.No.18874 of 2006 before this Court. The Writ Petition was disposed of on 13.09.2006 directing the first respondent to communicate reasons to the petitioner, for not admitting the document to registration.

The first respondent issued a memo, dated 04.10.2006 stating that according to the information furnished in the website of the A.P.Wakf Board, the subject matter of the sale deed is a Wakf property and in that view of the matter, he required the petitioners to obtain No Objection Certificate from the Wakf Board, third respondent herein. Feeling aggrieved by this memo, the

petitioners filed W.P.No.21209 of 2006. The writ petition was dismissed at the admission stage on 13.10.2006, on the ground that the petitioners had an alternative remedy by way of an appeal before the District Registrar, second respondent herein. The petitioners filed W.A.No.1275 of 2006 against the said order. The Writ Appeal was also dismissed on 06.12.2006.

An appeal under Section 72 of the Registration Act, 1908 (for short 'the Act') was presented before the second respondent, against the memo, dated 04.10.2006 issued by the first respondent. The appeal was rejected and the order was communicated to the petitioners on 17.03.2007. The same is challenged in this writ petition.

Sri Vedula Venkata Ramana, the learned counsel for the petitioners submits that the view taken by respondents 1 and 2 cannot be sustained in law. He further submits that the respondents have indirectly undertaken adjudication of a title dispute and it is outside the purview of their powers under the Act and the Rules made thereunder. He places reliance upon the Judgment of a Full Bench of this Court in ***Yanala Malleshwari vs. Ananthula Sayamma***[1]***.***

On behalf of the third respondent, a counter affidavit

is filed. It is stated that the subject matter of the sale deed is an item of property belonging to Wakf Board and the transfer thereof is prohibited under Section 51 of the Wakf Act, 1995. An objection is also raised as to the maintainability of the writ petition, on the ground that an alternative remedy is available to the petitioners.

Sri S.M.Subhani, the learned counsel for the third respondent reiterated the contentions advanced through the counter affidavit. Learned Government Pleader for Revenue had urged almost the same contentions.

It is true that a Full Bench of this Court in ***Yanala Malleshwari***'s case (1 supra) held that it is not at all competent for a registering authority to delve into the title of the parties to a document. In effect, it was observed that a registering authority has no option but to admit a document for registration, once the party presenting it complies with the provisions of the Indian Stamp Act and the Registration Act. Further, Section 22-A of the Act, which alone enabled the State Government to issue notification, to list out the items of property, prohibiting transfer thereof, was held to be unconstitutional and *ultra vires* by the Hon'ble Supreme Court in ***State of Rajasthan vs. Basanth Nahata***[2]***.***

Not withstanding these factors, that weigh with this Court, the petitioner cannot be granted any relief in this writ petition. The reason is that the learned Single Judge, while dismissing W.P.No.21209 of 2006, and the Division Bench, while dismissing W.A.No.1275 of 2006, categorically observed that the remedy available to the petitioners, in the event of the appeal being rejected by second respondent, is to file a suit. Though it is urged on behalf of the learned counsel for the petitioners that the said observations cannot be treated as Ratio, judicial discipline demands that the observations made by Division Bench are respected whether or not they constitute Ratio, once they are made in the same dispute.

For the foregoing reasons, the Writ Petition is dismissed, leaving it open to the petitioners to pursue their remedies, in accordance with law. There shall be no order as to costs.

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11.06.2007

JSU

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[1] 2006(6) ALT 523 (F.B.)

[2] AIR 2005 SC 3401